

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate Proposed Amendments)
To the Framework for Integrated)
Resource Planning.)
_____)

DOCKET NO. 2009-0108

ORDER GRANTING INTERVENTION

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

PUBLIC UTILITIES
COMMISSION

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FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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Docket No. 2009-0108

ORDER GRANTING INTERVENTION

By this Order, the commission grants intervenor status to: 1) the Department of Business, Economic Development, and Tourism; 2) County of Hawaii; 3) County of Maui; 4) County of Kauai; 5) Life of the Land; 6) Haiku Design and Analysis; 7) Hawaii Renewable Energy Alliance; 8) Blue Planet Foundation; 9) Hawaii Solar Energy Association; 10) JW Marriott Ihilani Resort & Spa, Waikoloa Marriott Beach Resort & Spa, Maui Ocean Club, Wailea Marriott, and Marriott Hotel Services, Inc., on behalf of Kauai Marriott Resort & Beach Club (collectively, "Marriotts"); and 11) Forest City Hawaii Residential, Inc. (collectively, "Intervenors").

I.

Background

By Order Initiating Investigation, filed on May 14, 2009, the commission instituted this proceeding to examine HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), HAWAII ELECTRIC LIGHT COMPANY, INC.

("HELCO"),¹ KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), and the DIVISION OF CONSUMER ADVOCACY OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' ("Consumer Advocate") proposed amendments to the Framework for Integrated Resource Planning, as set forth in their letter dated and filed on April 28, 2009, which was attached as Exhibit "A" to the order. In the Order, the commission stated:

Any interested individual, entity, agency, or community or business organization may file a motion to intervene or participate without intervention in this docket. Motions to intervene or participate without intervention must comply with all applicable rules of HAR Chapter 6-61.

Order Initiating Investigation, at 5.

Subsequent to the opening of this docket, the following motions to intervene were filed: 1) The Department of Business, Economic Development, and Tourism's Motion to Intervene, filed on June 3, 2009; 2) County of Hawai'i's Motion to Intervene or to Participate in the Public Utilities Commission's Docket No. 2009-0108, Instituting a Proceeding to Investigate Proposed Amendments to the Framework for Integrated Resource Planning, filed on June 3, 2009; 3) County of Maui's Motion to Intervene in the Public Utilities Commission's Docket No. 2009-0108, Instituting a Proceeding to Investigate Proposed Amendments to the Framework for Integrated Resource Planning, filed on June 1, 2009, as amended on June 2, 2009; 4) County of Kauai's Motion to Intervene, filed on June 3, 2009; 5) Life of the Land's

¹HECO, MECO, and HELCO are collectively referred to as the "HECO Companies."

Motion to Intervene, filed on May 22, 2009; 6) Motion to Intervene of Haiku Design and Analysis, filed on June 2, 2009; 7) Motion to Intervene of Hawaii Renewable Energy Alliance, filed on June 1, 2009; 8) Blue Planet Foundation's Motion to Intervene, filed on June 3, 2009; 9) Motion for Intervention of Hawaii Solar Energy Association, filed on June 3, 2009; 10) Motion to Intervene and Certificate of Service of JW Marriott Ihilani Resort & Spa, Waikoloa Marriott Beach Resort & Spa, Maui Ocean Club, Wailea Marriott, and Marriott Hotel Services, Inc., on behalf of Kauai Marriott Resort & Beach Club, filed on June 2, 2009; and 11) Forest City Hawaii Residential, Inc.'s Motion to Intervene, filed on June 3, 2009 (collectively, "Intervention Motions").

By letter filed on June 10, 2009, the HECO Companies' state that they do not oppose the granting of intervenor status to any of the Intervenors so long as movants do not broaden the issues or delay the proceeding and comply with the commission's Rules of Practice and Procedure.

II.

Discussion

A.

Intervention

HAR § 6-61-55 sets forth the requirements for intervention in commission proceedings. It states, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.
- (b) The motion shall make reference to:
- (1) The nature of the applicant's statutory or other right to participate in the hearing;
 - (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
 - (3) The effect of the pending order as to the applicant's interest;
 - (4) The other means available whereby the applicant's interest may be protected;
 - (5) The extent to which the applicant's interest will not be represented by existing parties;
 - (6) The extent to which the applicant's participation can assist in the development of a sound record;
 - (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
 - (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
 - (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(a) and (b).

HAR § 6-61-55(d) further states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." In addition, the Hawaii Supreme Court has stated the general rule on intervention as follows: "Intervention as a party in a proceeding before the [commission] is not a matter of right but is a matter resting within the sound discretion of the commission." In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975).

Here, while the commission is cognizant of the varying levels of interest and experience of movants, given the nature of this investigation, the commission will grant all of the Intervention Motions. Nonetheless, Intervenors are cautioned that their participation as Intervenors in this docket will be limited to the issues raised in this docket. The commission will preclude any effort by the Intervenors to unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider an Intervenor's participation in this docket if, at any time, during the course of this proceeding, the commission determines that an Intervenor is unreasonably broadening the pertinent issues raised in this docket or is unduly delaying the proceeding. In addition, given that the commission has granted intervention status to Intervenors, the commission expects that all Intervenors will fully participate in the docket, and will comply with the commission's rules and orders. As noted above,

failure to do so may constitute cause for the commission to reconsider its decision to grant an Intervenor intervention status.

B.

Procedural Matters

In its Order Initiating Investigation, the commission directed that:

Within sixty days from the date of this Order, the Parties (and intervenors and participants, if any) shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file proposed orders for the commission's review and consideration within the same deadline.

Order Initiating Investigation, at 8-9.

Given the number of parties to this docket, the commission will extend the original deadline for filing a stipulated procedural order in this docket for an additional two weeks from July 15, 2009 to July 29, 2009.

III.

Orders

THE COMMISSION ORDERS:

1. The Intervention Motions filed by Intervenor are granted.

2. By July 29, 2009, the Parties shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file a proposed order for the commission's review and consideration within the same deadline.

DONE at Honolulu, Hawaii JUL - 1 2009.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Stacey Kawasaki Djou
Commission Counsel

2009-0108.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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